REMARKS

Claims 20 - 39 are currently pending. Claims 20, 29, 38, and 39 are the pending independent claims. The Examiner has indicated that claims 20-28 and 39 are allowed. Applicant expresses her sincere appreciation for allowance of these claims, however, Applicant neither accepts not rejects the Examiner's comments about the pertinence and/or teaching of any particular art in relation to the subject matter of her claims.

The drawings have been objected to because the third structure in Scheme 2 is said to be incorrect. The specification has been objected to because a claim of priority needs to be included in the specification or application data sheet. Claim 33 has been objected to because of the presence of the extraneous word "any"(actually "any of").

Claims 29-37 were rejected under 35 U.S.C. § 112, second paragraph, as allegedly incomplete. Claim 38 was rejected as allegedly obvious under 35 U.S.C. §103(a) based on the information described in light of *Chemical & Pharmaceutical Bulletin* (1992). 40(6), p. 1443-1451. standing alone.

Each of the foregoing objections and rejections is respectfully traversed, and favorable reconsideration is requested in view of the above amendments and following remarks. No new matter has been added by any of the amendments presented herein.

I. The Objection To The Drawings Has Been Overcome.

The Examiner indicates his belief that the third structure shown in Scheme II of the drawings is inconsistent with the specification and the claims. However, the specification at paragraph [0008] states the following: "The amino protected D-alanine is then converted into an acid activated amino protected D-alanine with an acid activating reagent." Example reagents for this purpose include "preferably acid chlorides." A person of ordinary skill in the art would recognize that when the amino protected D-alanine is contacted with an acid chloride reagent under

appropriate conditions, the OH group will be converted to a chloride as shown in the third structure of Scheme II. Thus, the specification is not believed inconsistent with the third structure shown in Scheme II of the drawings. Reconsideration and withdrawal of this objection is respectfully requested.

II. The Objection To The Specification Has Been Obviated.

A claim of priority has been inserted into the specification as requested by the Examiner. No new matter has been added by the amendment. Reconsideration and withdrawal of this ground of objection is also respectfully requested.

III. The Objection To Claim 33 Has Been Obviated.

The extraneous material in claim 33 has been deleted as shown in the new recital of claims. In light of the amendment, reconsideration and allowance of claim 33 is respectfully requested.

IV. The Rejection To Claims 29 - 37 Has Been Overcome.

Claim 29 has been amended to specifically state the step between step "e" and the step recited in step "f", which provides for o-ethoxy phenoxyethylation of the amino group. No new matter has been added by the amendment. In light of amendment, reconsideration and allowance of claim 29 are respectfully requested.

Dependent claims 30 - 37 depend from amended independent claim 29, and call for additional features and limitations of the invention. In light of the amendment to independent claim 29, reconsideration and allowance of dependent claims 30 - 37 are respectfully requested.

New claim 40 has been added to recite an additional step "g" of obtaining tamsulosin hydrochloride by reacting the tamsulosin obtained in step "f" with ethanolic HCl. No new matter has been added by the amendment. Allowance of new claim 40 is respectfully requested.

V. The Rejection to Claim 38 Has Been Overcome.

Finally, the Examiner asserts as a basis for rejecting claim 38 that homologs are, in his view, considered to be obvious absent unexpected results. However, the premise this assertion (i.e., *In re Henze*) is in error, therefore, the assertion is unfounded. *In re Henze*–a case dating back to 1950--was expressly overruled in *In re Stemniski* (1971). Moreover, the other case cited in the Office Action (*In re Hass*) actually date back to the 1940's – not 1980 as indicated in the Office Action. The MPEP now states that "[h]omology should not be automatically equated with prima facie obviousness because the claimed invention and the prior art must each be viewed 'as a whole.'" MPEP § 2144.09, Section II, paragraph 3 (emphasis added).

Also, the image molecule image cited in the Office Action that has been asserted as a homolog of the molecule called for in claim 38 appears to actually be a diastereomer of the molecule claimed in claim 38. A diastereomer is not an enantiomer. It is well-known that diastereomers typically have very different properties from one another and the effect of one diastereomers certainly cannot be said to be "obvious" from any knowledge of the other given the fact that the properties of diasteriomers are expected to be different from one another. Because no evidence related to the properties of the structure cited in the Office Action as compared to the structure of the molecule called for in claim 38 has been presented and because the law relied upon in the Office Action is no longer in effect, the Examiner has not presented a *prima facie* case of obviousness with regard to claim 38. Thus, claim 38 has not been shown to lack patentability by way of the cited reference or otherwise. Reconsideration and allowance of claim 38 are respectfully requested.

VI. Conclusion.

In light of the foregoing, Applicant respectfully requests that the Examiner reconsider the application, withdraw the rejections, and issue a notice of allowance at the earliest possible convenience.

In the event this response is not timely filed, Applicant hereby petitions for the appropriate extension of time and request that the fee for the extension along with any other fees which may be due with respect to this paper be charged to our Deposit Account No. 12-2355.

Respectfully submitted,

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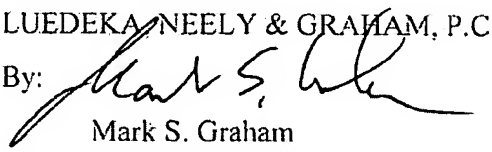
By: 

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